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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,036	03/10/2004	Junichi Shinohara	250128US2	2107
22850 7590 05/02/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER MADDEN, GREGORY VINCENT	
			ART UNIT 2622	PAPER NUMBER
			NOTIFICATION DATE 05/02/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

Application No.

10/796,036

Applicant(s)

SHINOHARA, JUNICHI

Examiner

Gregory V. Madden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 7, 8 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7, 8 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 15, 2007 has been entered.

***Response to Arguments***

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

In regard to claim 1, the Applicant has amended the claim to include the limitation of "a first auto focusing device which is a charge coupled device auto focus (CCDAF) configured to obtain and evaluate sequentially an image signal according to each focusing condition changed by relatively moving at least one of a part or an entire of said photographic optical system and said imaging device, thereby obtaining a predetermined focusing condition based on an evaluation result on said image signal". In the amendment after-final received on February 14, 2007, the Applicant contends that the passive auto focusing device of Nonaka fails to teach the above limitations (See Remarks, Pgs. 7 and 8). While the Examiner agrees that Nonaka alone does not teach the newly amended limitations of claim 1, the Applicant's arguments are considered moot in view of a new ground of rejection in view of Hashimoto (U.S. Pat. 6,704,054). Please refer to the new rejection to claim 1, as well as to claims 2, 3, 5, 7, 8, and 10, set forth below.

Finally, it is noted that the Applicant has amended the title of the invention. The newly-amended title is acceptable, and therefore the previous objection to the title is hereby withdrawn.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Hashimoto (U.S. Pat. 6,704,054).**

First, considering **claim 1**, the Hashimoto reference teaches an image capturing apparatus (electronic image pickup apparatus 1) comprising a photographic optical system (imaging optical system) for projecting an image of a subject, an imaging device (CCD 5) for converting the projected image into an image signal and outputting it, a focus driving device (focus motor 22) which changes a focusing condition of the image projected to the imaging device by relatively moving at least a part of the photographic optical system (primarily focus lens group 3) and the imaging device (CCD 5) to the other, and a ranging device (infrared light detector) configured to measure a subject distance to the subject. Hashimoto also teaches a first auto focusing device (imager AF) which is a charge coupled device auto focus configured to obtain and evaluate sequentially an image signal according to each focusing condition changed by relatively moving part of the photographic optical system (focus lens group 3), thereby obtaining a predetermined focusing condition based on an evaluation result on said image signal, a second auto focusing device (infrared active AF means 30) which is an auto focus including the ranging device

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(infrared light detector) configured to obtain a focusing condition according to the subject distance obtained by the ranging device, and a controlling device (CPU 15) for controlling an operation of said first auto focusing device (imager AF), wherein the controlling device (15) is configured to switch between the first auto focusing device (imager AF) and the second auto focusing device (infrared active AF) according to the subject distance obtained by the ranging device. Note that the CPU 15 changes from the infrared active AF mode to one of two ranges of the imager AF mode based on the distance obtained by the ranging device. Please refer to Figs. 1 and 2, Col. 4, Lines 38 – Col. 5, Line 51, and Col. 7, Line 7 – Col. 8, Line 50.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2, 3, 5, 7, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto (U.S. Pat. 6,704,054) in view of Nonaka (U.S. Pat. 6,366,736).**

Next, regarding **claim 2**, the limitations of claim 1 are taught above by Hashimoto, but the Hashimoto reference fails to explicitly teach that the controlling device controls the first auto focusing device so as to carry out an evaluation in a peripheral focusing range of a focusing condition which corresponds to the subject distance obtained by the ranging device, and sets the peripheral focusing range in accordance with the subject distance. However, the Nonaka reference teaches a camera having a first and second auto focusing device (passive and active-type AF, respectively) wherein the first auto focusing device (passive AF 40) is controlled to carry out the evaluation in a peripheral focusing range of

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a focusing condition which corresponds to the subject distance measured. Further, a peripheral focusing range is set in accordance with the subject distance (See Nonaka Fig. 3A, and Col. 5 Line 60 – Col. 7, Line 26). It would have been obvious to one of ordinary skill in the art to have incorporated the evaluation in a peripheral focusing range, as taught by Nonaka, with the operation of the first auto focusing device of Hashimoto. One would have been motivated to do so because such a peripheral focusing range would enable the main subject of the image to be taken to be captured in an in-focus state, regardless of whether the main subject is in the center of the frame to be captured or on the periphery, as taught by Nonaka in Col. 7, Lines 11-17.

In regard to **claim 3**, Hashimoto in view of Nonaka discloses the limitations of claim 2 above, and the Nonaka reference further shows that the controlling device (CPU 10) sets the peripheral focusing range wider when the subject distance is more than a previously set predetermined distance (via passive type AF) and sets the peripheral focusing range narrower when the subject distance is less than the predetermined distance (via active type AF). Nonaka teaches these limitations in Fig. 3A and Col. 6, Line 46 – Col. 7, Line 17.

Considering **claim 5**, the limitations of claim 1 are taught above, and the Nonaka reference shows that the controlling device (CPU 10) switches between the first auto focusing device (passive-type AF 40) and the second auto focusing device (active-type AF 30) to operate the first auto focusing device (40) to operate the first auto focusing device (passive type AF) when the subject distance is more than a predetermined distance and to operate the second auto focusing device (active type AF) when the subject distance is less than the predetermined distance, as is taught in Col. 5, Line 1 – Col. 6, Line 36, Col. 7, Lines 1-17, and Col. 10, Lines 46-55.

Next, as for **claim 7**, the limitations of claim 2 are taught above, and the Nonaka reference further shows that the controlling device (CPU 10) controls the first auto focusing device (passive type AF) so as to carry out the evaluation in the peripheral focusing range of a focusing condition which corresponds to

the subject distance obtained by the ranging device, and sets the peripheral focusing range pursuant to the presence or absence of the subject (i.e. a person or a tree) which is mixed with a long distance and a short distance that is based on the distance to each area. Nonaka teaches these limitations again in Col. 8, Lines 6-38.

Regarding **claim 8**, the limitations of claim 7 are taught above by Hashimoto in view of Nonaka, and Nonaka teaches that the controlling device (CPU 10) sets the peripheral focusing range wider when the subject is not in a condition mixed with the long distance and short distance (i.e. in the presence of trees) and sets the peripheral focusing range narrower when the subject is in the condition mixed with the long distance and the short distance. Please refer to Col. 7, Lines 18-52.

Finally, in regard to **claim 10**, the limitations of claim 8 are taught above, and the Nonaka reference shows that the controlling device (CPU 10) switches between the first auto focusing device (passive-type AF 40) and the second auto focusing device (active-type AF 30) to operate the first auto focusing device (40) when the subject is not in a condition mixed with the long distance and the short distance and to operate the second auto focusing device when the subject is in the condition mixed with the long distance and the short distance (i.e. the active type AF is operated when there are multiple objects in the image capture area, for example trees and buildings, whereas passive type AF is operated when only a single object with an indistinct background is in the image capture area). Please refer to Col. 8, Lines 6-38.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Izumi (U.S. Pat. 6,972,797)

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory V. Madden whose telephone number is 571-272-8128. The examiner can normally be reached on Mon.-Fri. 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc Yen Vu can be reached on 571-272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gregory Madden  
April 6, 2007



NGOC-YEN VU  
SUPERVISORY PATENT EXAMINER